

STATE OF WYOMING
DEPARTMENT OF ENVIRONMENTAL QUALITY
LAND QUALITY DIVISION
HERSCHLER BUILDING, 122 W. 25TH ST
CHEYENNE, WY 82002
TELEPHONE: (307) 777-7756
COAL OPERATION
NOTICE OF VIOLATION (NOTICE)

N.O.V. No. 100187
Permit No. 483-T5
Docket No. 4069-07

To the Following Permittee or Operator or Licensee:

Name: Thunder Basin Coal Company, LLC

Mine: Coal Creek Mine County: Campbell Telephone: 307-464-0377

Surface: X Underground: _____ Other: _____

Mailing Address: P.O. Box 406

Wright, WY 82732

Date of Inspection: May 16, 2007

Time of Inspection: from 9:00 a.m. (a.m. or p.m.) to 6:00 p.m. (a.m. or p.m.)

Name of Operator (if other than permittee): _____

Mailing Address: _____

Under the authority of the Wyoming Environmental Quality Act of 1973 (Act), as amended, the undersigned designated representative of the Director of the Wyoming Department of Environmental Quality (DEQ) has conducted an inspection of the above mine on the above date and has found violation(s) of the Act, the regulations or required permit condition(s) *listed in the attachment(s)*. This Notice constitutes a separate Notice of Violation for each violation listed.

You must abate each of these violations within the designated abatement time. You are responsible for doing all work in a safe and workmanlike manner.

The undersigned designated representative finds that cessation of mining is _____ is not X expressly or in practical effect required by this Notice. For this purpose "mining" means extracting coal from the earth or a waste pile and transporting it within or from the permit area.

This Notice shall remain in effect until it expires as provided on the attached Page 2 or is modified, terminated, or vacated by written notice of a designated representative or the Wyoming Environmental Quality Council. The time for abatement may be extended by a designated representative for up to 90 days from issuance of the notice, if the failure to meet the time previously set was not caused by lack of diligence on the part of the Permittee or Operator or Licensee.

DATE OF SERVICE: MAY 25, 2007

Richard A. Chancellor
SIGNATURE OF DESIGNATED REPRESENTATIVE

MANNER OF SERVICE: CERTIFIED MAIL 7005 1820 0005 1478 7944

RICHARD A. CHANCELLOR, P.E.
PRINTED NAME

PROOF OF SERVICE: _____

PERSON SERVED WITH NOTICE: MONICA CUMMINS

CC: CHEYENNE LQD
DISTRICT OFFICE
OSM - CASPER FIELD OFFICE

IMPORTANT – PLEASE READ CAREFULLY

1. **FORMAL REVIEW AND TEMPORARY RELIEF** You must apply for review of this Notice by submitting an application for review, within 30 days of this Notice by you or your agent, to:

Mr. John V. Corra, Director
Department of Environmental Quality
Herschler Building
122 W.25th St.
Cheyenne, WY 82002

If you apply for a formal public hearing, you may request temporary relief from this Notice. Your request must be filed at the above address prior to a decision in the hearing. The procedures for obtaining a formal public hearing or temporary relief are contained in W.S. § 35-11-437 (c) (ii) and (e), Land Quality Division (LQD) Coal Rules & Regulations (R&R) Chapter 16, Section 2(m) and DEQ Rules of Practice and Procedures Chapters 1 and 2.

2. **EXPEDITED REVIEW** If this Notice requires cessation of mining, expressly or in practical effect, as found on page 1, then the procedures of W.S. § 35-11-437 (d) apply. This provision affords an opportunity for an expedited hearing, upon request, if this Notice is affirmed by the director. Please review this finding and inform the designated representative if you agree with it.
3. **PENALTIES** You may submit information in writing pertaining to the violation(s) covered by this Notice within 15 days of the date it is served on you or your agent. This information will be considered in determining the facts surrounding the violation and the amount of penalty.

For each violation covered by this Notice, a penalty of up to \$5,000.00 may be assessed for each day during which that violation continues.

If you fail to abate any of the violations within the time set for abatement or for meeting any interim step, you must be assessed a minimum penalty of \$750.00 or more for each day during which the violation continues beyond the time set for abatement, and you must be issued a cessation order requiring you to cease surface coal mining operations on the portion relevant to the violation(s).

4. **EFFECT ON THE PERMIT** In addition, if it is determined that a pattern of violations of any requirement(s) of the Act, the regulations, or permit conditions exists, and that the violations were caused by unwarranted failure to comply or were willful, the permit may be suspended or revoked.

FOR FURTHER INFORMATION, PLEASE CONSULT: W.S. § 35-11-409(c), W.S. § 35-11-437, LQD Coal R&R Chapter 16, Sections 2 and 3 and DEQ Rules of Practice and Procedures Chapters 1 and 2.

Violation No. 1 of 2

Nature of the Violation

Failure to complete the Section 27 Diversion according to the approved designs before placing the diversion into service. This action resulted in excessive erosion of the lower reach of the diversion and deposition of eroded material in the native channel of the East Fork of Coal Creek.

The approved design of the Section 27 Diversion showed erosion control measures to be installed in the lower sections of the diversion. The field inspection revealed that these measures were not in place prior to placing the diversion into service

Provision(s) of the LQD Coal R&R, Act, or Permit Violated

1. WDEQ/LQD Rules and Regulations;

Chap.4, Sec. 2(e):

(i) Diversion of streams.

(B) All diversions and associated structures shall be designed, constructed, maintained and used to ensure stability, prevent, to the extent possible using best technology currently available, additional contribution of suspended solids to streamflow outside the permit area, and comply with all applicable local, State and Federal rules.

(ii) Control of discharge and drainage.

(A) Discharge from sedimentation ponds, permanent and temporary impoundments, coal-processing waste dams and embankments, and diversions shall be controlled, by energy dissipaters, riprap channels, and other devices, where necessary, to reduce erosion, to prevent deepening or enlargement of stream channels, and to minimize disturbance of the hydrologic balance. Discharge structures shall be designed according to standard engineering design procedures.

(iv) Diversion systems - Unchannelized surface water and ephemeral streams.

B) Temporary diversion of surface runoff or diversions used for erosion control shall meet the following standards:

(III) In soils or unconsolidated materials, the sides and, in ditches carrying intermittent discharges, the bottom shall be seeded with approved grasses so as to take advantage of the next growing season.

(IV) Rock riprap, concrete, soil cement or other methods shall be used where necessary to prevent unnecessary erosion.

(VI) Diversion ditches shall in a nonerosive manner pass the peak runoff from a 2-year, 6-hour precipitation event, or a storm duration that produces the largest peak flow, as specified by the Administrator.

Portion of the Operation to which Notice Applies

Stream diversion in portions of Sections 27 and 34, R71W, T46N.

Remedial Action Required (including interim steps, if any)

Thunder Basin Coal Co. (TBCC) shall submit in writing for approval by the LQD, a schedule to repair erosion damage in the diversion, remove sediment from the East Fork of Coal Creek and, complete the diversion as designed. Specific methods and estimated time for each task should be reported. Repairs and sediment removal should be carried out as soon as is practical.

Time for Abatement (including time for interim steps, if any)

The schedule shall be submitted within 10 working days after receipt of this Notice. Final abatement shall be in accordance with the schedule submitted to and approved by LQD

Notice of Violation No. 100187

Permit No. 483-T5

Docket No. 4069-07

Date of Service May 25, 2007

Violation No. 2 of 2

Nature of the Violation

Submitting P.E. certified as-built drawings of the Section 27 Diversion that showed and attested to erosion control measure being installed as called for in the approved designs. The field inspection revealed that these measures were not in place making the certification and drawings inaccurate.

Provision(s) of the LOD Coal R&R, Act, or Permit Violated

Wyoming Environmental Quality Act;

Article 35-11-902(k): Any person who knowingly makes false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained under Article 4 of this act for surface coal mining operations, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under article 4 of this act for surface coal mining operations shall, upon conviction be subject to a fine of not more than ten thousand dollars (\$ 10,000), imprisonment for not more than one (1) year, or both.

Portion of the Operation to which Notice Applies

Stream diversion in portions of Sections 27 and 34, R71W, T46N.

Remedial Action Required (including interim steps, if any)

Thunder Basin Coal Co. (TBCC) shall submit a new PE certification and accurate as-built drawings once the diversion is completed according to the approved design.

Time for Abatement (including time for interim steps, if any)

The new certification shall be submitted within 10 working days after completion of the diversion.